

1 HONORABLE RONALD B. LEIGHTON
2
3
4
5
6
7
8

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 JOHN GARRETT SMITH,

CASE NO. C19-5394RBL

10 v. Petitioner,

ORDER

11 RON HAYNES,

12 Respondent.

13
14
15 THIS MATTER is before the Court on Petitioner Smith's "Objections/Motion for the
16 Court to Immediately Replace JRC" [Dkt. # 43]. Smith objects to Magistrate Judge Creatura 's
17 Report and Recommendation [Dkt. # 42], recommending that this Court DENY Smith's § 2254
18 Petition, decline to issue a Certificate of Appealability, and Revoke Smith's *in forma pauperis*
19 status in the event of any appeal.

20 Smith also asks this Court to force Magistrate Judge Creatura to Recuse himself. But
21 Smith already asked Judge Creatura to do so [Dkt. # 44], he declined [Dkt. # 46], Chief Judge
22 Martinez affirmed [Dkt. # 47], and Smith appealed [Dkt. # 48]. Smith's Motion to force Judge
23 Creatura to recuse is **DENIED**.

1 Under Fed. R. Civ. P. 62.1, this Court notifies the Ninth Circuit that, if the matter were
2 remanded for the limited purpose of ruling on the pending Report and Recommendation, the
3 Court would enter the following order:

4 (1) The Report and Recommendation [Dkt. # 42] is **ADOPTED**;
5 (2) Petitioner's §2254 habeas petition [Dkt. # 7] is **DENIED**;
6 (3) For the reasons articulated in the R&R, the Court will **NOT** issue a Certificate of
7 Appealability; and
8 (4) Petitioner's *in forma pauperis* status is **REVOKE**D in the event of an appeal.

9 IT IS SO ORDERED.

10 Dated this 21st day of July, 2020.

11 
12 Ronald B. Leighton
13 Ronald B. Leighton
United States District Judge